

MINUTES OF THE DRINKING WATER BOARD MEETING HELD ON SEPTEMBER 13,
2002 IN SALT LAKE CITY, UTAH

Board Members Present

Boyd Workman, Chairman
Dale Pierson, Vice Chairman
Myron Bateman
Jay Franson, P.E.
Don Hayes, Ph.D.
Nancy Melich
Dianne Nielson, Ph.D.
Ruth Perry
Charlie Roberts
Chris Webb

Board Members Excused

Anne Erickson, Ed.D.

Staff

Kevin Brown
Michael Georgeson
Bill Birkes
Ken Wilde
Linda Matulich

Guests

Curtis Ludvigson, Rural Water Association
Chris Haller, Water Commissioner, Town of Garden City
Kenneth Hansen, Mayor, Garden City
Dale Jackman, Angell Springs SSD
Reed Scow, Director, Angell Springs SSD
Douglas Nielsen, Sunrise Engineering
Linda Fordham, Thompson SSD
Lynn Wall, Wall Engineering
Thayne Christensen, Kanosh Town
Jennifer Bracken, Thompson SSD
Carson Bracken, Thompson SSD
Anita Bethers, Billy Bethers Water System
Jim Carbine, Mountain Regional SSD
Phil Wright, Director, Wasatch County Health Department
Dale Berg, Sowby & Berg
Marie Owens, Metropolitan Water District of Salt Lake & Sandy

ITEM 1 – CALL TO ORDER

The Drinking Water Board convened in Salt Lake City, Utah with Boyd Workman presiding.
The meeting was called to order at 1:05 p.m.

ITEM 2 – ROLL CALL

Chairman Workman asked Kevin Brown to call roll of the Board members. The roll call showed there were 10 members present at the time.

ITEM 3 – INTRODUCTIONS

Chairman Workman welcomed everyone and asked the guests to introduce themselves.

ITEM 4 – APPROVAL OF MINUTES

Chairman Workman stated a motion to approve the August 9, 2002 minutes would be in order.

Dale Pierson moved the Board approve the August 9, 2002 minutes.

Charlie Roberts seconded.

**CARRIED
(Unanimous)**

ITEM 5 – STATE SRF/REVOLVING LOAN FUND (SRF)/CONSERVATION COMMITTEE

1) SRF Conservation Report – Vice Chairman Pierson

2) Status Report

Michael Georgeson reported the Board has \$3,728,000 available in the State Security Account, almost \$3 million in the loan account, a little over \$500,000 in the Secondary Fund, and a little over \$200,000 in the Hardship Grant Fund.

Mike mentioned the Board has \$1,891,000 in the federal SRF account that has not been committed yet from the fiscal year 2001 Capitalization Grant. Staff received word last month that the application for the 2002 money has been awarded and will give us a little over \$9 million to use.

Mike mentioned staff has scheduled a closing for the Atkinson/Mountain Regional loan. A closing has been scheduled for Washington City for their \$685,000 loan and for Elk Ridge for their \$350,000 loan next week.

3) State SRF Applications

a) Thompson Special Service District

Bill Birkes reported that Thompson Special Service District is a very small system about 5 miles east of Crescent Junction. The District filled out an application seeking \$7,000 in the form of a planning grant from the Board to use in conjunction with \$3,000 from Grand County and \$10,000 from the Community Impact Board for a water study, which is estimated at costing \$20,000. Bill handed out a scope of work and went over it with the Board.

Linda Fordham, Thompson Special Service District representative, and Doug Nielsen, Sunrise Engineering, addressed the Board.

Discussion followed.

Myron Bateman moved the Board approve the Finance Committee Recommendation to authorize a \$7,000 planning grant to the District contingent upon an approved scope of work.

Jay Franson seconded.

CARRIED

(Unanimous)

b) Angell Springs Special Service District

Bill Birkes reported Angell Springs came before the Board at the August 2000 meeting and asked for some grant money for a dedicated line to its storage tank. Angell Springs ran into some extra expenses in drilling a well and asked the Board for permission to use the money to complete the well. Angell Springs has now completed the well. Angell Springs has now applied for funding to complete the dedicated line, estimated at \$22,788.99. The District is asking for \$20,000 from the Board and will be able to contribute \$2,788.99 toward the project.

Dale Jackman and Reed Scow, Angell Springs representatives, addressed the Board.

Discussion followed.

Myron Bateman moved the Board authorize the SRF/Conservation Committee recommendation and authorize a loan for \$20,000 with a term of 5 years at an interest rate of 1.54%, and the bond be a taxable generic bond.

Discussion on motion followed.

Ruth Perry seconded.

**CARRIED
(Unanimous)**

c) Garden City

Bill Birkes reported Garden City's main source of water is Swan Spring. Swan Spring was recently classified as under the direct influence of surface water. The Division directed the system to do one of three things; 1) abandon the source, 2) redevelop the source, or 3) treat the source as surface water and filter it with disinfectants. Sunrise Engineering did a study looking for alternatives. Sunrise Engineering is recommending installing a microfiltration plant, which will cost approximately \$2.7 million. Garden City asked for \$1.7 million from Rural Development. Garden City received a \$765,000 grant and a \$935,000 loan at 4.75% for 40 years. Garden City needs an additional \$1 million to complete the project. Garden City is asking the Board to consider a 25-year loan rather than the normal 20-year loan. Staff came up with some new calculations for a 25-year term with an interest rate at 3.19%. Bill reviewed the new calculations with the Board.

Mayor Ken Hansen, Garden City, and Doug Nielsen, Sunrise Engineering representing Garden City, addressed the Board.

Discussion followed.

Don Hayes moved the Board authorize a loan of \$1,000,000 for 25 years at 3.19%.

Discussion on motion.

Chris Webb seconded.

Don Hayes amended his motion to include any additional incentives that might be given to Garden City at the time of closing and the interest rate be adjusted accordingly for a loan of \$1,000,000 for 25 years.

Chris Webb reseconded.

**CARRIED
(Unanimous)**

d) NEW AGENDA ITEM - Mountain Regional Water Special Service District aka Atkinson Special Service District

Mike Georgeson reported Atkinson Special Service District originally sought a loan to help build a new well for their system. The water quality in their old well was deteriorating considerably. Before staff closed the loan and the well was drilled, Atkinson District was absorbed into Mountain Regional Water Special Service District. Summit County lent some money to Mountain Regional to drill a new well for Atkinson. With all of the issues Mountain Regional was meeting at the time, they did not seek closing the loan to repay Summit County. Summit County now expects the repayment. In preparing the closing documents for the loan repayment to the County and because of the length of time that has elapsed, the bond attorney for Mountain Regional said they couldn't render a tax exemption opinion on the bond. Mike reviewed the rules on purchasing tax-exempt bonds with the Board. If the Board requires a tax-exempt bond, we will not be able to close the loan with Atkinson. If the Board is willing to accept a taxable bond, then staff can go ahead and close.

Jim Carbine is the new manager for the system and was present for any questions from the Board.

Chris Webb moved the Board authorize staff to accept a taxable bond as security for the Board's previously authorized loan of \$357,000 to Mountain Regional Water Special Service District.

Discussion on motion.

Don Hayes seconded.

**CARRIED
(Unanimous)**

4) Federal SRF Applications

Don Hayes moved to have b) Kanosh addressed first and a) Billy Bethers/Daniels Domestic addressed second.

Myron Bateman seconded.

**CARRIED
(Unanimous)**

b) Kanosh

Ken Wilde reported Kanosh is requesting some assistance in constructing another 200,000-gallon tank; replace some 2 inch water lines with larger lines and a 14 inch transmission main from the tank to the distribution system. Kanosh is requesting a loan and grant of \$285,000. The SRF Conservation Committee recommended that Kanosh receive funding for \$285,000 at an interest rate of 2.50% for 20 years. Kanosh is eligible for \$57,000 as a disadvantaged community for Principal Forgiveness, which would make a repayable loan of \$228,000. The Committee also recommended that, if Kanosh would establish a water rate structure encouraging conservation, they could receive the points for that prior to loan closing, and would be allowed to have an interest rate of 1.45%. Kanosh can't regionalize and the points can't be used to determine the interest rate.

Thayne Christensen, Councilman for Kanosh Town, and Lynn Wall, Wall Engineering, representing Kanosh addressed the Board.

Discussion followed.

Chris Webb moved the Board authorize a \$285,000 Federal SRF loan for 20 years at an interest rate of 2.50% with principal forgiveness of \$57,000 to pay over 20 years with the option that Kanosh be allowed to take advantage of an acceptable rate structure that would allow them to reduce that rate to 1.45% prior to closing.

Myron Bateman seconded.

**CARRIED
(Unanimous)**

a) Billy Bethers/Daniels Domestic

Michael Georgeson reported the Billy Bethers system has a long history of compliance problems with water quality and monitoring reporting and received an Administrative Order to fix the problems. The system applied for an SRF loan about a year or so ago, but failed the capacity development test. They are ineligible for an SRF loan. Mike reviewed the capacity development program and criteria for the new board members.

Mike said a study was done for Wasatch County on Daniels Domestic, Billy Bethers, Country Estates and Storm Haven where it may be possible for them to connect to each other and improve their capacity. In order to investigate this study in more depth, the Board authorized a Hardship Planning Grant to Wasatch County. Sowby & Berg were hired by Wasatch County to do the study. Some of the background was discussed on the study. This project was also discussed in length in the morning work session.

Michael Georgeson said the repayment figures presented to the Board were on a per connection basis. Mike suggested that it might be more equitable to base the assessment or repayment on land area owned by the shareholder. Staff doesn't have the capability of determining land ownership.

Discussion followed.

Dale Berg, Sowby & Berg representative, and Phil Wright, Director, Wasatch County Health Department, addressed the Board.

Chris asked if the Board needed to make a motion to adopt an emergency rule to allow for the 30-year repayment.

Boyd Workman mentioned we would need to make a motion subject to that provision. The rule is on the agenda today.

Jay Franson moved the Board authorize two loans; one to Billy Bethers and one to Daniels Domestic contingent upon Daniels creating a Class B stock. The Class B stock would be based on one share of stock per acre with assessments for Billy Bethers cost only assigned to it. For example, if the land ever develops into smaller lots of an acre lot size and based on one share of Class B stock per acre, then the appropriate amount of Class B stock assessment will have to be paid on the transfer of the title, or the owners of the stock can pay their assessments over time if they want. The Billy Bethers loan amount will be at an 80% forgiveness, and a 20% repayment at 0% interest based on hardship. The Daniels Domestic loan amount will be at a 20% forgiveness and an 80% repayment based on 0% interest. The Board specifically direct staff to solicit the county and the Rural Water Association to help facilitate the discussions that need to take place with the stockholders of both companies, and this offer will stand for 6 months.

Discussion on motion.

Don Hayes seconded.

Chris Webb asked about adding, "it is contingent upon Daniel Domestic acquiring Billy Bethers and becoming one legal entity and that the Board is considering Daniel Domestic a disadvantaged community based on the acquisition".

Jay Franson amended his motion to include "that there be a detailed engineering timeline that shows the improvements to the Billy Bethers to be done before the liability in some way to address the issue that needs to be done beforehand".

Discussion followed.

Chris Webb moved a substitute motion, the Board to consider Daniels Domestic a disadvantaged community and approve: a) a loan for \$406,000 at 20% principal forgiveness at 0% loan for a 20 or 30 year option for Daniel Domestic and b) a loan to be repaid by Billy Bethers for \$433,000 at 50% principal forgiveness and 50% payback at 0% for 30 years allowing payback based on an equal assessment per acre for all properties currently in the Billy Bethers

service area allowing the assessment to be paid back monthly at the property owners discretion, or the total assessment on the transfer of title, contingent upon 1) Daniels Domestic acquiring Billy Bethers and they become one legal entity and 2) contingent upon the approval of the rule allowing for a 30 year repayment.

Discussion on motion.

Myron Bateman seconded the motion.

Discussion on the substitute motion and the original motion.

VOTING ON SUBSTITUTE MOTION:

Five voted yes and five voted no on Chris' substitute motion.

Motion failed.

VOTING ON ORIGINAL MOTION:

Three voted yes and five voted no on Jay's original motion.

Motion failed.

Myron moved the Board authorize a 30% loan with 70% principal forgiveness for Billy Bethers with everything else essentially remaining the same as in Chris' substitute motion as stated above.

Boyd Workman seconded.

CARRIED

Two opposed. Motion carried.

c) Priority Point Revisions

Ken Wilde reported staff added two systems to the Project Priority List of Garden City and Acme Water Company (which serves the community of Bear River).

Chris Webb moved the Board accept the Project Priority List taking Garden City off of the list.

Discussion on motion.

Myron Bateman seconded.

Chris Webb amended his motion accepting the Project Priority List leaving Garden City on the list.

Myron Bateman seconded the amended motion.

**CARRIED
(Unanimous)**

ITEM 6 – FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION – RULES R309-110, R309-204, R309-500, 505, 510, 520, 525, 530, 535, 540, 545, AND 550 AND RULES R309-705 AND R309-700

Bill Birkes reported staff periodically receives the Division of Administrative Rules reminders about rules that are about to sunset. Enclosed in the packet is a letter from Ken Hansen, from Administrative Rules, wherein he informs staff that R309-110, R309-204, and the R309-500 series are basically scheduled for sun setting on January 1, 2003. Staff is coming to the Board for authorization to file a Notice of Review and Statement of Continuation to continue the rules as part of the Administrative Code.

Don Hayes moved the Board authorize staff to proceed with the necessary filing to continue these rules.

Dale Pierson seconded.

**CARRIED
(Unanimous)**

NEW AGENDA ITEM 6a – ADDITIONAL PROPOSED AMENDMENT – RULE R309-705

Bill Birkes reported shortly after last month's meeting it was brought to the attention of staff that R309-705 was to sunset on August 19, 2002. The Division of Administrative Rules allows staff to request an extension of 120 days. Staff recommends filing for an extension for R309-705. Rule R309-700 is scheduled to sunset on October 31, 2002. Staff requests the Board continue Rule R309-705 and R309-700. There are some amendments to the rules. The Division of Administrative Rules has informed staff that amending a rule does not change the sunset dates. After the two rules are continued from sun setting, staff will seek the amendments to the rules to be completed at that time.

Chris Webb moved the Board authorize staff to proceed with the necessary filing to continue with Rules R309-700 and R309-705, and to authorize staff to proceed with the necessary filings to the amend Rules R309-700 and R309-705 as presented.

Charlie Roberts seconded.

**CARRIED
(Unanimous)**

ITEM 7 – CHAIRMAN'S REPORT

a) Don Hayes Farewell

Boyd Workman, on behalf of the Board, thanked Don Hayes for his valuable time and work on the Board, the SRF/Conservation Committee, the Backflow Commission, and the Operator Certification Commission.

Don thanked everyone and for the plaque he received.

b) Don's Replacement Status

Boyd Workman mentioned Laurie McNeill, from Utah State University, will be the new Board member.

Kevin Brown updated the Board on Laurie McNeill. The Senate will finalize Laurie's confirmation Wednesday, September 18, 2002.

ITEM 8 – DIRECTORS REPORT

a) Upcoming Legislation

Kevin Brown mentioned there are several issues coming before the Legislation. One of which deals with the water loan funding issue. There is a task force that Dianne Nielson is on, that is looking at the 1/16% sales tax funding and is trying to find an alternative funding mechanism. Governor Leavitt's desires to use the 1/16% sales tax funding to help out on the education shortfall. Kevin met with Senator Blackham about two weeks ago and several members of the water community to talk about potentially using a state issued bond to cover our state match requirements for the federal one's.

Mike Georgeson went to a meeting Wednesday at the Jordan Water District offices. Dave Ovard is chairing a subcommittee and looking at possible funding options. Mike mentioned the subcommittee wants to look over loan portfolio to see what the sales tax has done; the financial assistance is being carried out and to get a feel for the drinking water, water quality and water resource programs.

Discussion followed.

Kevin mentioned there is another legislative issue on water system tampering and destruction. It was felt that some language needs to be put in the state statute to protect the water systems from tampering and destruction. Concerns about the security of water systems against acts of terrorism attacks or any other vicious attacks are involved in this.

Kevin said another legislative issue is on the GRAMA Rules.

Dale Pierson updated the Board on the GRAMA Rules and what is being looked at on securing documents better.

Kevin mentioned another legislative issue is on source water protection. This one is a little more complicated and should probably spend some time in a work session on this issue. Currently, the

Source Water Protection Rules require public water systems put together some source water protection plans. The groundwater systems have all of theirs done for wells and springs. The surface water sources have until May 2003 to have some protection plans in place. Kevin gave some background on this issue.

Discussion followed.

b) Rules Update

Dianne Nielson mentioned there are two rules in rulemaking right now from the Department level. One of the rules is on Emergency Meetings and the second rule is on Telephonic Meetings. Dianne said these are procedures that are already in place and the Board is already utilizing. The Attorney Generals Office had some concerns.

c) Division Operating Budget Status

Kevin Brown mentioned staff is operating in the black. Staff is close to receiving money from the federal government from the operator certification and security accounts. The Division is in good shape for the coming year.

d) Hiring Status of Five New FTE's

Kevin Brown said the Division is in the process of hiring 5 new staff and hopes to have them on board soon.

ITEM 9 – NEWS ARTICLES

News articles are in the packet.

ITEM 10 – LETTERS

Letters are in the packet.

ITEM 11 – UPDATE

The update is in the packet.

ITEM 12 – NEXT BOARD MEETING

The next Board meeting is scheduled for October 11, 2002 at 1:00 p.m. in Green River, Utah.

ITEM 13 – OTHER

No other business.

ITEM 14 – ADJOURN

Chairman Workman stated a motion to adjourn the Board meeting was in order.

Chris Webb moved to adjourn the Board meeting at 3:15 p.m.

Charlie Roberts seconded.

**CARRIED
(Unanimous)**

Linda Matulich
Recording Secretary